

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MASSACHUSETTS

3 )  
4 UNITED STATES OF AMERICA, )  
5 Plaintiff, ) Criminal Action  
6 v. ) No. 21-10035-ADB  
7 FAITH NEWTON, )  
8 Defendant. )  
9 )

10 \* \* \* \* \* E X C E R P T \* \* \* \* \*

11 JURY TRIAL DAY TWO  
12  
13 BEFORE THE HONORABLE ALLISON D. BURROUGHS  
14 UNITED STATES DISTRICT JUDGE

15 July 9, 2024

16 John J. Moakley United States Courthouse  
17 Courtroom No. 17  
18 One Courthouse Way  
19 Boston, Massachusetts 02210

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## P R O C E E D I N G S

THE COURT: Are you guys ready?

MR. IOVIENO: Yeah.

THE COURT: I'm just going to run through a few things as quickly as I can and then whatever issues you guys have. I put a revised draft of the preliminary instructions on each of your desks. You should look through that and let me know if you have any issues with it.

MR. BRADY: I had a chance to flip through it, Your Honor. The government is fine with it.

THE COURT: I mostly added things that Ms. Newton wanted or I deleted things she objected to. So I think, Ms. Newton, you should be fine with it, but you'll let me know. I'll give you a few minutes to look at it.

One of the things she wants is the indictment read as part of the preliminary instructions. I don't usually do that because I don't typically think it's good for the defendant that I read the indictment. But what I will do, Ms. Newton, if you want me to, is to read the six counts that you're charged in, if you want me to. I'm not going to read all the narrative, but if you want to read the actual counts, I will.

Alternatively, I don't need to read them now. But if you want a copy of those counts to go with the jury out when they deliberate, I'll do that, too. So you let me know if you want me to read them now or you want me to just reserve on that

1 and send them back with them afterwards.

2 THE DEFENDANT: I don't understand. The ones you mean  
3 about charges, is it like conspiracy to commit health care  
4 fraud?

5 THE COURT: Yes. So if you have a copy -- do you have  
6 a copy of the indictment in front of you?

7 Do you have a copy you can just show her, Mr. Looney?

8 MR. LOONEY: Sure.

9 THE COURT: If you look at page 11, I would read page  
08:40 10 11, except for the first paragraph, and then I would read page  
11 12, except for the first paragraph.

12 (Defendant conferring with counsel.)

13 THE DEFENDANT: No. I want the manner the crime was  
14 committed.

15 THE COURT: No, I'm not going to read all of that.

16 THE DEFENDANT: It's only like a couple --

17 THE COURT: What page are you talking about?

18 THE DEFENDANT: Page 9. It's just --

19 THE COURT: Hold on. Let me get there.

08:41 20 Page 9, it's overt acts in furtherance --

21 THE DEFENDANT: No. I'm sorry. It's not that one.

22 THE COURT: Okay.

23 THE DEFENDANT: Give me a minute. You told me to  
24 speak up. Can you hear me?

25 THE COURT: I can hear you right now. I can hear you,

1 but when you're talking to the jury, I want you to pull that  
2 microphone, I want you to really be in front of it. I can hear  
3 you now.

4 THE DEFENDANT: Okay. Page 6.

5 THE COURT: The manner and means.

6 THE DEFENDANT: Yes.

7 THE COURT: All right. If you want me to read that  
8 top part of page 6, I will, except that I'll eliminate little  
9 "e," right? Because that's no longer in the case.

08:42 10 MR. BRADY: Actually, Your Honor, while we dismissed  
11 the conspiracy relating to the kickbacks, we're offering  
12 evidence relating to it as part of the fraud.

13 THE COURT: Okay, okay. I'll read page 6 if you want.  
14 And then read the counts?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. So I'm going to need a minute to  
17 get that organized, but I will do that. I take it the  
18 government doesn't have any objection to that?

19 MR. BRADY: I mean, Your Honor, I think we would be  
08:42 20 within our rights to ask for more context, but I'm not going to  
21 pound the table or belabor it here. There are more parts of  
22 the indictment.

23 THE COURT: Hopefully we'll get through this and we'll  
24 have a couple of minutes. If there's something that you want  
25 read, you let me know, but I'm not going to -- I'm not going to

1 read like 23 pages of an indictment to the jury.

2 MR. BRADY: We understand that, Your Honor.

3 THE COURT: Okay. All right. I ruled on your motion  
4 about openings because I wasn't sure anyone could access the  
5 docket. I left a copy of the order on each of your tables, so  
6 each of you should have that.

7 Ms. Newton, in the motions that you filed yesterday,  
8 one of the things that you were complaining about was that you  
9 don't have electronic filing. And we went back and looked at  
08:43 10 it, and you've never actually made a motion for electronic  
11 filing. If you make the motion on electronic filing, I will  
12 grant it and you can have electronic filing.

13 THE DEFENDANT: Yeah. I applied and then three days  
14 ago the court replied to me that it was rejected, that I should  
15 ask the judge.

16 THE COURT: Right. File a motion. Karen, can I do it  
17 orally or no?

18 COURTROOM CLERK: I think it needs to be on the  
19 docket.

08:43 20 THE COURT: If I do it orally, can you put it on the  
21 docket?

22 COURTROOM CLERK: Yes. I guess, yeah.

23 THE COURT: She just made a motion. She wants  
24 electronic filing. I'm granting the motion. She can have  
25 electronic filing. Put it on the docket, and let's see how

1 quickly we can make that happen for her. But we gave you the  
2 instructions about how to do it, and then you've got to do it.  
3 But we will try to make that happen for you. There's no reason  
4 you can't have electronic filing.

5 THE DEFENDANT: Okay. Thank you, Your Honor.

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7 THE COURT: One quick question, now that she's back.  
8 I am going to read the counts of the indictment like she  
9 wanted. But Ms. Newton, can you just take a look at page 18,  
09:09 10 which are the money laundering counts. The counts, it was  
11 derived from specified unlawful activity, and then it goes to  
12 the health care fraud conspiracy, health care fraud, and then  
13 Three and Four go to the kickbacks.

14 Do you want me to read those, or do you want me to  
15 skip those? They're no longer in the case, and I think it  
16 might be prejudicial to you for me to include them, but if you  
17 want me to, I will.

18 THE DEFENDANT: I don't.

19 THE COURT: Skip those?

09:10 20 THE DEFENDANT: Yeah.

21 THE COURT: Just read One and Two. The government?

22 MR. LOONEY: May we have a minute just to confer with  
23 our chief on this before we make a final decision? Just  
24 because there is a legal nuance to it I think.

25 THE COURT: You can do it.

1 MR. LOONEY: I'd like to just consult briefly.

2 THE COURT: Go ahead.

3 (Pause.)

4 MR. LOONEY: We agree with your proposal.

5 THE COURT: Good decision, Mr. Looney.

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CERTIFICATE OF OFFICIAL REPORTER

I, Kelly Mortellite, Registered Merit Reporter  
and Certified Realtime Reporter, in and for the United States  
District Court for the District of Massachusetts, do hereby  
certify that the foregoing transcript is a true and correct  
transcript of the stenographically reported proceedings held in  
the above-entitled matter to the best of my skill and ability.

Dated this 8th day of August, 2024.

/s/ Kelly Mortellite

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Kelly Mortellite, RMR, CRR

Official Court Reporter